REMARKS

Claims 20 through 23 remain in the application. No amendments are being made in this paper. Claims 20 and 21 are the independent claims herein. No new matter has been added. Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 103

Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmelstein (U.S. Publication No. 2002/0038278) in view of Russo (U.S. Publication No. 2004/0068458).

These rejections are respectfully traversed for the reasons that are set forth below.

At the outset applicants wish to respectfully comment that the present Office Action seems to the applicants to be riddled with numerous errors. Applicants believe that this is a consequence of the cited references in fact having little pertinence to the invention as actually claimed, such that the Examiner's attempts to read the independent claims on the references totally misfire, and represent completely erroneous readings of the references or of the claims, or of both.

One major problem with the Examiner's statement of the rejections is that the Examiner fails to cite specific elements in the references as allegedly satisfying specific claim limitations. For example, what features in the Himmelstein or Russo references does the Examiner consider as satisfying the first and second order type menus recited in claim 20? The Examiner "string cites" the claim limitations and then string cites[1] portions of the references, but upon the applicants studying the cited portions of the references, the applicants are not able to determine

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[1] For example, the Examiner unhelpfully cites every one of the 108 drawing figures of the Russo reference. Most are clearly irrelevant to the claim language. Moreover, although certain types of menus are at the heart of the claimed subject matter, it does not appear that a single one of Russo's drawing figures includes a menu. Still further, it is not at all clear that the small display fields on Russo's "pocket rocket" are even large enough to accommodate a menu.

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that the cited portions of the reference have any particular relevance to most of the claim limitations.[2]

The applicants will now turn to a more detailed discussion of the claim language and of the errors in the pending rejections of claims 20 and 21.

Claim 20 is directed to a "method" that includes "displaying a first order type menu at times when a first order destination alternative is selected from an order destination menu". Claim 20 specifies that "the first order destination alternative represent[s] a first order destination" and that "the first order type menu list[s] only order type alternatives that represent order types supported by the first order destination". In addition, claim 20 further recites the step of "displaying a second order type menu at times when a second order destination alternative is selected from the order destination menu". Claim 20 further specifies that "the second order destination alternative represent[s] a second order destination" "the second order type menu list[s] only order type alternatives that represent order types supported by the second order destination", "the second order type menu [is] different from the first order type menu", "the first order destination and the second order destination are each selected from the group consisting of (a) a securities exchange, (b) a market maker, (c) an ECN, and (d) a trading market place" and "order type alternatives included in both said first and second order type menus include a market order type and a limit order type".

To summarize the import of claim 20, that claim provides that when a user selects a particular alternative (e.g., representing a particular securities exchange or the like) from an order destination menu, then the order type menu that is displayed lists only order types that are supported by the selected order destination. This effectively uses machine intelligence to guide the user only to select an order type that is supported by the selected order destination, and helps the user cope with the different varieties of order types that are supported by the different order destinations.

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[2] Another problem with the pending Office Action is that, although claims 20 and 21 differ substantially in scope there is little difference in the Examiner's discussion of these two claims. For example, claim 20 recites two different order type menus, while claim 20 recites two different order destination menus. Nevertheless, except where the Examiner parrots back the claim language in his discussion, the Examiner's discussion of the Russo reference relative to the two claims treats them as if they were exactly the same. This would not have occurred if the Examiner had attempted to address the claim limitations one-by-one, as would have been proper.

A salient point concerning the erroneous nature of the rejection of claim 20 is that <u>neither the Himmelstein reference nor the Russo reference discloses either an order destination menu or an order type menu.</u>[3]

Himmelstein is concerned with a system that allows for trading of securities on a barter basis. The user interface displays disclosed by Himmelstein do not include either an order destination menu or an order type menu, particularly if one considers how those terms are effectively defined in claim 20. In particular, the pull down menus 503 and 507 shown in FIG. 5A of Himmelstein, and upon which the Examiner specifically relies, are clearly not order destination menus or order type menus. The pull down menu at 503 merely lists items in the trader's portfolio that are available for trading. The pull down menus at 507 do the same, but with the portfolio items divided up by category. (In this regard, the Examiner is respectfully requested to refer to paragraphs 51 and 52 of the reference.) None of the menus at 503 or 507 lists either an order type or an order destination. It is also the case that none of Himmelstein's menus lists an order type such as a market order type or a limit order type.

In a sense, the Russo reference is even further from relevance than Himmelstein is. At least Himmelstein shows menus, although not the kind that are the subject of claim 10. Russo, on the other hand, does not show a single menu[4], at least as far as applicants can tell.[5] To debunk the Examiner's specific citations to portions of Russo:

(a) The Abstract seems to promise a pocket-sized quotation (and perhaps ordering) device. There is no mention of menus.

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[3] This is why applicants feel constrained to assert that the references relied upon by the Examiner have little relevance to the claimed subject matter.

[4] See footnote 1, above.

[5] Applicants observe that the disclosure of the Russo reference is neither clear nor well organized, and is apparently the product of an amateur inventor rather than a professional patent attorney. For example, the Examiner is respectfully referred to claim 1 in Russo—clearly this is not a patent attorney's work product. Given the turgid nature of Russo's writing, applicants respectfully request that (in the event that the Examiner does not drop this rejection) any future reference to Russo's text by the Examiner include both line number and paragraph number to guide the applicants to any specifically relevant portions of Russo's long and confusing paragraphs.

(b) Paragraphs 0001-0003 are to the same general effect as the Abstract (though at much greater length), also including a brief discussion of a system to support the "pocket rocket". Again, no mention of menus.

(c) Paragraph 10, with paragraph 11, describes a "pyramid shaped symbol" that points up to indicate that a stock has increased in value or points down to indicate that a stock has decreased in value. There is no indication of anything selectable by the user, and no description of a menu. It appears that the "choice" referred to in paragraphs 10 and 11 is made by the device (to indicate the direction of price movement), not by the user.

(d) Paragraph 240, whatever it conveys in terms of selecting a stock symbol[6], does not describe a menu of any kind. FIG. 57 clearly is not a menu, let alone an order type menu or an order destination menu.

(e) Paragraphs 233 and 241 both refer to placing limit orders (though not explicitly mentioning market orders). At any rate, if anything is clear from these paragraphs, it is that they do not refer to an "order type menu" from which either a market order type or a limit order type may be selected.

With both references so far away from disclosing either an order destination menu or an order type menu, it is evident that they are ever so much further away from relating to the crux of the invention of claim 20, namely displaying a different order type menu depending on which alternative is selected from an order destination menu. Applicants strongly urge the Examiner to reconsider what claim 20 is all about, and to drop this severely flawed rejection.[7]

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[6] Applicants' representative confesses to being confused by this, as well as many other parts, of Russo's rambling descriptions.

[7] Applicants will note one further flaw in the stated rejection, if only as a matter of interest. The Examiner alleges, as a motivation for combining the references, a statement in Russo at paragraph 234 concerning "simply push[ing] a few buttons and then just wait[ing] for the profits and[/]or the ships to come in." Applicants respectfully suggest that this statement is just "puffing" on Russo's part and would not be taken seriously by any person skilled in the art. Indeed it is the promise of any securities ordering system that placement of orders will lead to profits (if the user is smart enough). Even if it were worthwhile for the Examiner to combine the references, given their profound and shared deficiencies, nevertheless the Examiner is going to have to do better than this to justify such a combination.

Claim 21 is directed to a "method" which includes "displaying a first order destination menu at times when a first financial instrument trading symbol is displayed in an order input area of a user interface". Claim 21 specifies that "the first order destination menu list[s] only order destination alternatives that correspond to order destinations that support trading in a first financial instrument that corresponds to the first financial instrument trading symbol". Claim 21 further recites the step of "displaying a second order destination menu at times when a second financial instrument trading symbol is displayed in the order input area". In addition, claim 21 specifies that "the second order destination menu list[s] only order destination alternatives that correspond to order destinations that support trading in a second financial instrument that corresponds to the second financial instrument trading symbol", "the second order destination menu [is] different from the first order destination menu", "at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu" and "each of the order destinations is selected from the group consisting of (a) a securities exchange, (b) a market maker, (c) an ECN, and (d) a trading market place".

Just as the method of claim 20 helps the user deal with the fact that different order destinations support different sets of order types, the method of claim 21 helps the user deal with the fact that different financial instruments are traded on different sets of order destinations. It does so by displaying different order destination menus depending on what trading symbol is currently displayed.

Since order destination menus are central to claim 21, it should not be surprising that much of the above discussion of claim 20 is relevant. Again, <u>neither of the references relied upon by the Examiner comes close to disclosing an order destination menu</u>, let alone two different order destination menus. This point, standing alone, is believed sufficient to torpedo the rejection of claim 21. Applicants will also briefly summarize the discussion of claim 20, by pointing out that the only menus in Himmelstein called out by the Examiner are portfolio menus, not order destination menus. Once more, in addition, applicants will point out that Russo is completely lacking in menus of any kind.

It is again also the case that the references come nowhere near the crux of claim 21, which is displaying different order destination menus depending on what trading symbol is currently displayed.

In similar fashion to the rejection of claim 20, the rejection of claim 21 is severely flawed and should be withdrawn.

Claims 22 and 23 are submitted as patentable on the same basis as claim 21.

C O N C L U S I O N

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-3460.

Respectfully submitted,

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